

# EXHIBIT 10

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 - - - - -  
4 AXIOM INVESTMENT ADVISORS, LLC, )  
5 by and through its Trustee, Gildor )  
6 Management, LLC, and AXIOM )  
7 INVESTMENT COMPANY, LLC, by and )  
8 through its Trustee, Gildor )  
9 Management, LLC, )  
10 )

11 Plaintiffs, )

12 v. )

13 DEUTSCHE BANK AG, )

14 Defendant. )

Case No.  
15 Civ. 9945 (LGS)

16 VIDEOTAPED DEPOSITION OF ROEL OOMEN

17 VOLUME I

18 Friday, November 3, 2017

19 AT: 9:11 a.m.

20 Taken at:

21 Kirkland & Ellis LLP  
22 30 St Mary Axe  
23 London EC3A 8AF  
24 UNITED KINGDOM

25 Court Reporter:

Rose Kay



<p>1 Q. Do you recall at least one?</p> <p>2 MR. GENSER: Same objection.</p> <p>3 A. I recall the conversation that I highlighted,</p> <p>4 yes.</p> <p>5 BY MS. LAWRENCE:</p> <p>6 Q. Are you familiar with FX Direct Dealer LLC,</p> <p>7 often referred to as "FXDD"?</p> <p>8 A. I believe they are a client of ours, yes.</p> <p>9 Q. And what is FXDD?</p> <p>10 A. I believe, but I am not certain, that they are</p> <p>11 a retail broker.</p> <p>12 Q. Do you recall FXDD ever being fined for its --</p> <p>13 any of its processes involving last look?</p> <p>14 MR. GENSER: Objection, form.</p> <p>15 A. I don't recall.</p> <p>16 BY MS. LAWRENCE:</p> <p>17 Q. Outside of the last look context, are you</p> <p>18 aware of any other investigations, cases or settlements</p> <p>19 concerning FX trading against Deutsche Bank?</p> <p>20 MR. GENSER: Object to form; and I also object</p> <p>21 potentially on the grounds of attorney-client privilege and</p> <p>22 work product. To the extent that your answer would be based</p> <p>23 on, or reveal, attorney-client communications, I instruct</p> <p>24 you not to answer the question. If you can answer without</p> <p>25 revealing those communications, then you can answer.</p> <p style="text-align: right;">37</p>	<p>1 A. The Kevin Sheppard I know, presumably. He is</p> <p>2 an Oxford academic.</p> <p>3 Q. And did you and he write an article where you</p> <p>4 referenced the 4 p.m. FX currency fix?</p> <p>5 A. Yes.</p> <p>6 Q. So you are familiar with the 4 p.m. FX</p> <p>7 currency fix; correct?</p> <p>8 A. Yes.</p> <p>9 Q. And are you aware that there are cases and</p> <p>10 settlements concerning that?</p> <p>11 MR. GENSER: Object to form and objection,</p> <p>12 relevance.</p> <p>13 A. Yes, I read the news. I have come across it.</p> <p>14 BY MS. LAWRENCE:</p> <p>15 Q. And are you familiar with, in particular, the</p> <p>16 cases and settlements concerning Deutsche Bank and the FX</p> <p>17 currency fix?</p> <p>18 MR. GENSER: Object to form, relevance.</p> <p>19 A. I don't believe so.</p> <p>20 BY MS. LAWRENCE:</p> <p>21 Q. Shifting gears a little bit. Can you please</p> <p>22 explain to me your highest level of education that you have</p> <p>23 completed?</p> <p>24 A. I have a PhD in economics.</p> <p>25 Q. And where is that from, please?</p> <p style="text-align: right;">39</p>
<p>1 A. Sorry, can you repeat the question one more</p> <p>2 time?</p> <p>3 (Record read.)</p> <p>4 MR. GENSER: Same objection and same instruction.</p> <p>5 A. I believe the DFS investigation is broader</p> <p>6 than just last look.</p> <p>7 BY MS. LAWRENCE:</p> <p>8 Q. And what do you mean by "the DFS</p> <p>9 investigation"?</p> <p>10 MR. GENSER: Same objection and same instruction.</p> <p>11 A. So the New York Department of Financial</p> <p>12 Services, concerning investigations and Deutsche Bank FX</p> <p>13 trading, and that has been publicly reported.</p> <p>14 And the scope of that, I believe, is broader than</p> <p>15 last look.</p> <p>16 BY MS. LAWRENCE:</p> <p>17 Q. Are you familiar with any of the cases or</p> <p>18 settlements against any banks, concerning the setting of</p> <p>19 the FX benchmark or currency fix?</p> <p>20 MR. GENSER: Same objection and same instruction</p> <p>21 to the witness concerning privilege.</p> <p>22 A. Yes. Familiar in the sense that I know there</p> <p>23 have been fixing allegations and fines being paid, yes.</p> <p>24 BY MS. LAWRENCE:</p> <p>25 Q. Who is Kevin Sheppard?</p> <p style="text-align: right;">38</p>	<p>1 A. From the European University Institute.</p> <p>2 Q. Where is that located?</p> <p>3 A. In Florence, Italy.</p> <p>4 Q. And what year did you obtain that PhD?</p> <p>5 A. 2003.</p> <p>6 Q. And did you have a sub-specialty within</p> <p>7 economics?</p> <p>8 A. Yes.</p> <p>9 Q. And what was that?</p> <p>10 A. The analysis of high frequency financial</p> <p>11 market data. The statistical analysis, I should say.</p> <p>12 Q. And prior to attending the European University</p> <p>13 Institute, did you obtain any other degrees?</p> <p>14 A. Yes, I obtained a Masters degree.</p> <p>15 Q. And where did you obtain your Masters?</p> <p>16 A. The University of Groningen in Holland.</p> <p>17 Q. You are probably going to have to spell that.</p> <p>18 A. Yes. G-R-O-N-I-N-G-E-N.</p> <p>19 Q. And what was that Masters in, please?</p> <p>20 A. Econometrics.</p> <p>21 Q. And what year did you obtain that Masters?</p> <p>22 A. 1997.</p> <p>23 Q. And again, did you have a sub-specialty under</p> <p>24 econometrics?</p> <p>25 A. At that point, no.</p> <p style="text-align: right;">40</p>



<p>1 bank, your employer, would give for a definition?</p> <p>2 MR. GENSER: Objection, lack of foundation. And</p> <p>3 I will note: Mr. Oomen is not here as a 30(b)(6) witness.</p> <p>4 You have had your opportunity to question the bank's</p> <p>5 30(b)(6) witness on the topic of last look. So let's not</p> <p>6 try to turn this into a 30(b)(6) deposition, which it is</p> <p>7 not.</p> <p>8 A. Firstly, I should say: you call it</p> <p>9 a "definition". I would call it an informal description</p> <p>10 on my behalf.</p> <p>11 I don't think the way I described "latency buffer"</p> <p>12 is materially inconsistent with how Deutsche Bank would view</p> <p>13 this process.</p> <p>14 BY MS. LAWRENCE:</p> <p>15 Q. Okay. Turning back to slide 22. Do you see</p> <p>16 the last line says:</p> <p>17 "It halts the latency arms race and similar</p> <p>18 concepts have recently been deployed ..."</p> <p>19 Then it lists four entities. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Specifically what do you mean by a "latency</p> <p>22 arms race"?</p> <p>23 A. The -- the development where market</p> <p>24 participants are investing time, effort and resources into</p> <p>25 trading in ways that are latency-sensitive.</p> <p style="text-align: right;">77</p>	<p>1 A. Ah, well --</p> <p>2 MR. GENSER: Objection -- hold on. What is the</p> <p>3 question? Your last statement was: "We are not talking</p> <p>4 about the slide." It is not a question. So do you have</p> <p>5 a question?</p> <p>6 MS. LAWRENCE: Can you read back the last</p> <p>7 question, please?</p> <p>8 (Record read.)</p> <p>9 MR. GENSER: Objection, vague. Misstates the</p> <p>10 testimony.</p> <p>11 A. Sorry, maybe I should just summarize the</p> <p>12 argument we have had. You are asking me about a specific</p> <p>13 quote, and I gave two examples of activities that I would</p> <p>14 judge to be part of the latency arms race.</p> <p>15 The context in which I gave these examples are</p> <p>16 traders trying to execute trades on the venues that are</p> <p>17 listed in this quote here.</p> <p>18 Your question seems to depart from this entire</p> <p>19 context and ask something unrelated.</p> <p>20 BY MS. LAWRENCE:</p> <p>21 Q. Okay. So don't look at the slide; okay? I am</p> <p>22 asking you -- if I said: what do you understand the term</p> <p>23 "latency arms race" to mean, what would your answer be?</p> <p>24 MR. GENSER: Objection, asked and answered.</p> <p>25 A. Market participants investing in technology</p> <p style="text-align: right;">79</p>
<p>1 Q. And what are some of those ways?</p> <p>2 MR. GENSER: Objection, vague.</p> <p>3 A. Co-locations, microwave networks. Those are</p> <p>4 two examples.</p> <p>5 BY MS. LAWRENCE:</p> <p>6 Q. So these would be mechanisms to shorten the</p> <p>7 latency period during a trade decision?</p> <p>8 MR. GENSER: Objection, misstates the testimony.</p> <p>9 A. No.</p> <p>10 BY MS. LAWRENCE:</p> <p>11 Q. Okay. Then what is the purpose of those ways,</p> <p>12 those mechanisms you listed?</p> <p>13 MR. GENSER: Objection, vague.</p> <p>14 A. Faster communication between locations and,</p> <p>15 I guess, order submission closer to the matching engine of</p> <p>16 the venue.</p> <p>17 BY MS. LAWRENCE:</p> <p>18 Q. So faster communications would enable</p> <p>19 a liquidity provider to make a trade decision, based on</p> <p>20 relevant information quicker; correct?</p> <p>21 MR. GENSER: Objection, form. Vague.</p> <p>22 A. The context we are discussing here is ParFX,</p> <p>23 EBS, Reuters and IEX.</p> <p>24 BY MS. LAWRENCE:</p> <p>25 Q. No, we are not talking about the slide.</p> <p style="text-align: right;">78</p>	<p>1 that allows for -- well, that allows for latency-sensitive</p> <p>2 trading.</p> <p>3 BY MS. LAWRENCE:</p> <p>4 Q. And one way to get around that investment is</p> <p>5 to employ a latency buffer; correct?</p> <p>6 MR. GENSER: Object to form. Vague.</p> <p>7 A. So the rationale for a lot of the venues that</p> <p>8 are listed here, that have introduced a latency floor, is to</p> <p>9 mitigate the arms race. That is reflected in public</p> <p>10 statements from IEX, Reuters, EBS and ParFX, for instance.</p> <p>11 MS. LAWRENCE: Okay. I am going to move to strike</p> <p>12 that answer as non-responsive. Can you read the question</p> <p>13 back, please?</p> <p>14 MR. GENSER: That answer was completely responsive</p> <p>15 and you can't just move to strike testimony that you don't</p> <p>16 like.</p> <p>17 MS. LAWRENCE: Can you repeat the question,</p> <p>18 please?</p> <p>19 (Record read.)</p> <p>20 MR. GENSER: Object to form. Vague. Asked and</p> <p>21 answered.</p> <p>22 A. Sorry. Are you asking me a question now?</p> <p>23 BY MS. LAWRENCE:</p> <p>24 Q. I have asked the question now twice.</p> <p>25 A. Okay. Shall I answer it a second time?</p> <p style="text-align: right;">80</p>



<p>1 MR. GENSER: Mr. Oomen, do you need some water or 2 anything?</p> <p>3 A. Yes, can I have some water? Thank you.</p> <p>4 A price quote -- I wouldn't use the term "price 5 quote" because a quote consists of a number of attributes, 6 and one of them is price. But other ones are quote ID, 7 amount, currency pair; a number of factors. So a quote is 8 a quote and a price would be part of a quote.</p> <p>9 BY MS. LAWRENCE:</p> <p>10 Q. So are you sending quotes or prices?</p> <p>11 A. We send quotes, indicative quotes.</p> <p>12 Q. So in this DTA model, Deutsche Bank compares 13 the price in the client trade request to the most recent 14 updated client stream price?</p> <p>15 MR. GENSER: Objection, vague with respect to 16 "this DTA model".</p> <p>17 A. Yes, I don't -- so as I said, I don't 18 recognize this document. I haven't authored it. So when 19 you say: "Within this model, what does Deutsche Bank do?" 20 I wonder if you can rephrase the question.</p> <p>21 BY MS. LAWRENCE:</p> <p>22 Q. Okay. So this document aside, in 23 Deutsche Bank's DTA methodology, does Deutsche Bank compare 24 the price in the client trade request to the most recent 25 updated client stream prices?</p> <p style="text-align: right;">149</p>	<p>1 a number of other checks have been completed, like a credit 2 check, quote integrity, liquidity check, system 3 availability, and so on, impose a short delay; after which 4 it will make an accept or reject recommendation, on the 5 basis of where the most up to date client price is, compared 6 to the price that the client originally sent the request 7 upon.</p> <p>8 BY MS. LAWRENCE:</p> <p>9 Q. So after the trade instructions, you said 10 a series of checks occurs; correct?</p> <p>11 MR. GENSER: Objection, misstates the testimony.</p> <p>12 A. After the receipt of the trade instruction, 13 yes, a number of checks occurs.</p> <p>14 BY MS. LAWRENCE:</p> <p>15 Q. And that occurs before any DTA is applied; 16 correct?</p> <p>17 MR. GENSER: Objection, vague.</p> <p>18 BY MS. LAWRENCE:</p> <p>19 Q. Irrespective of a DTA?</p> <p>20 A. I believe there are parallel processes.</p> <p>21 BY MS. LAWRENCE:</p> <p>22 Q. Are there any other price comparisons done 23 outside of the DTA acceptance --</p> <p>24 MR. GENSER: Objection, vague.</p> <p>25 BY MS. LAWRENCE:</p> <p style="text-align: right;">151</p>
<p>1 MR. GENSER: Objection, vague.</p> <p>2 A. Yes. There will be a scenario where it might 3 do that. But it doesn't necessarily need to do that.</p> <p>4 BY MS. LAWRENCE:</p> <p>5 Q. So you are familiar with the DTA module at 6 Deutsche Bank; correct?</p> <p>7 A. So as I mentioned, at a high level I am 8 familiar with it, yes.</p> <p>9 Q. Okay.</p> <p>10 Can you explain, for the record, how it works, 11 from your high level understanding?</p> <p>12 A. So the trading protocol we have with clients 13 is where we send indicative quotes to our clients. And they 14 then send trade instructions on those indicative quotes for 15 consideration by us, to determine whether we can accept or 16 reject those trade requests.</p> <p>17 The -- a number of checks will form part of this 18 decision, that are not all related to DTA. But one of the 19 checks could be DTA.</p> <p>20 As I highlighted before, the delayed acceptance -- 21 the delayed trade acceptance configuration is only 22 applicable to a small subset of targeted clients who trade 23 in a latency-sensitive manner and it is a defensive 24 mechanism against it.</p> <p>25 The delayed trade acceptance piece would, after</p> <p style="text-align: right;">150</p>	<p>1 Q. -- module?</p> <p>2 A. Outside of the?</p> <p>3 Q. DTA acceptance module.</p> <p>4 MR. GENSER: Objection, vague.</p> <p>5 A. Yes. So if delayed trade acceptance is not 6 configured, then we will obviously still check if the trade 7 requests that are coming in are on-market.</p> <p>8 BY MS. LAWRENCE:</p> <p>9 Q. How do you check that?</p> <p>10 A. So there are a number of checks. 11 We check whether the client is sending a request, 12 based on a valid quote ID, so checking basically whether he 13 is attempting to deal on a quote that we have actually 14 previously sent to him.</p> <p>15 We will check at what point did we send that quote 16 ID to him and whether there have been any subsequent quotes 17 since then; i.e. is he dealing on a stale quote, not the 18 latest available quote?</p> <p>19 And then if it is on a valid quote ID, we would 20 still do a price check as well, to make sure that it is 21 within the parameters specified by the system.</p> <p>22 Q. So if a DTA is applied, you say that after 23 a specified period of time, Deutsche Bank decides whether or 24 not to accept the trade on the basis of where the most up to 25 date client price is; correct?</p> <p style="text-align: right;">152</p>



<p>1 A. Sorry, can you say that again?</p> <p>2 <b>Q. Can you read it back, please?</b></p> <p>3 (Record read.)</p> <p>4 MR. GENSER: Object to form.</p> <p>5 A. Yes, I said the trade acceptance module will</p> <p>6 then make a recommendation to accept or reject the trade.</p> <p>7 BY MS. LAWRENCE:</p> <p>8 <b>Q. By using what price comparison?</b></p> <p>9 MR. GENSER: Objection, asked and answered.</p> <p>10 A. By comparing the rate at which the client is</p> <p>11 requesting to deal, versus the current rate that we are --</p> <p>12 that is valid for the client at that point in time.</p> <p>13 BY MS. LAWRENCE:</p> <p>14 <b>Q. The current rate that you yourself just said,</b></p> <p>15 <b>is that, in your opinion, the actual rate?</b></p> <p>16 MR. GENSER: Objection to form. In particular, to</p> <p>17 the extent you are seeking an opinion, Mr. Oomen is not</p> <p>18 being proffered as an expert witness.</p> <p>19 A. I would say it's the -- it's the most accurate</p> <p>20 assessment that we can make of where a fair price of</p> <p>21 liquidity is at that point in time.</p> <p>22 BY MS. LAWRENCE:</p> <p>23 <b>Q. Wouldn't the most accurate assessment be</b></p> <p>24 <b>a historical price?</b></p> <p>25 A. No.</p> <p style="text-align: right;">153</p>	<p>1 the absence of delayed trade acceptance, time still -- it</p> <p>2 still takes time to have a negotiation between the liquidity</p> <p>3 provider and the client. So we are sending indicative</p> <p>4 quotes to the client. That takes time. The client needs to</p> <p>5 make a trade decision on whether to send an instruction.</p> <p>6 That takes time. The client then sends that instruction</p> <p>7 over to Deutsche Bank and that takes time.</p> <p>8 And so even in the absence of delayed trade</p> <p>9 acceptance, there is the need to check whether the prices</p> <p>10 are still accurate, because time has elapsed.</p> <p>11 BY MS. LAWRENCE:</p> <p>12 <b>Q. Okay. So are you comparing it to the most</b></p> <p>13 <b>updated price at the time you have completed your checks?</b></p> <p>14 MR. GENSER: Object to form. Vague.</p> <p>15 A. So without DTA, we would compare the incoming</p> <p>16 trade request to the current client price, at the time of</p> <p>17 the trade acceptance decision. Without DTA, there is no</p> <p>18 additional pause before we make that decision.</p> <p>19 BY MS. LAWRENCE:</p> <p>20 <b>Q. So that decision is made after the checks are</b></p> <p>21 <b>run; correct?</b></p> <p>22 MR. GENSER: Objection, misstates the testimony.</p> <p>23 Asked and answered.</p> <p>24 A. We first -- before we can even contemplate</p> <p>25 a trade acceptance decision, we need to understand whether</p> <p style="text-align: right;">155</p>
<p>1 <b>Q. And why is that?</b></p> <p>2 A. Well, there's nearly an infinite amount of</p> <p>3 historical prices. None of them are -- I mean, a historical</p> <p>4 price can be -- sorry. I just don't ... a historical price</p> <p>5 from 1992 or ...?</p> <p>6 <b>Q. No, from a millisecond before or 2</b></p> <p>7 <b>milliseconds before, or still on its own.</b></p> <p>8 MR. GENSER: Objection to form, vague.</p> <p>9 A. I would say the most accurate price</p> <p>10 incorporates all the information up to date; and so looking</p> <p>11 back in history, you are always going to have a less</p> <p>12 accurate price.</p> <p>13 BY MS. LAWRENCE:</p> <p>14 <b>Q. In the absence of DTA, if DTA is not applied.</b></p> <p>15 A. Mm-hm.</p> <p>16 <b>Q. What price is the client's trade request price</b></p> <p>17 <b>compared to?</b></p> <p>18 MR. GENSER: Objection, asked and answered.</p> <p>19 A. It's still the same price. So -- sorry. The</p> <p>20 same logic applies, except that there's no delayed trade</p> <p>21 acceptance taking place.</p> <p>22 We will still do a price check, in terms of</p> <p>23 whether the trade request can be accepted, on the basis of</p> <p>24 the prices that we are currently showing to the client.</p> <p>25 Maybe just to emphasize this point: that even in</p> <p style="text-align: right;">154</p>	<p>1 the trade request that the client sends in is a valid trade</p> <p>2 request.</p> <p>3 BY MS. LAWRENCE:</p> <p>4 <b>Q. And after you do that, you do a price check;</b></p> <p>5 <b>correct?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. Okay. And could there be a price update</b></p> <p>8 <b>during the time in which all the other checks are being</b></p> <p>9 <b>applied?</b></p> <p>10 MR. GENSER: Object to form.</p> <p>11 A. Yes, I believe so.</p> <p>12 MS. LAWRENCE: He needs to change the tape.</p> <p>13 THE VIDEOGRAPHER: Going off the record at 2:54.</p> <p>14 End of tape 2 in the deposition of Mr. Roel Oomen.</p> <p>15 (2:54 p.m.)</p> <p>16 (Break taken.)</p> <p>17 (3:08 p.m.)</p> <p>18 THE VIDEOGRAPHER: This is the beginning of</p> <p>19 tape 3, volume I, and a continuation in the deposition of</p> <p>20 Mr. Roel Oomen. On the record at 3:08.</p> <p>21 BY MS. LAWRENCE:</p> <p>22 <b>Q. Just a follow-up on what we were talking about</b></p> <p>23 <b>before the break, Mr. Oomen.</b></p> <p>24 In the absence of the application of DTA, is it</p> <p>25 possible for Deutsche Bank to reject a trade, because its</p> <p style="text-align: right;">156</p>



<p>1 to "very first".</p> <p>2 A. Sorry. When you say "the very first check",</p> <p>3 it suggests that you have in mind other checks to happen</p> <p>4 subsequently. So I guess by that argument, it cannot be</p> <p>5 the price that is used in the trade acceptance final</p> <p>6 decision.</p> <p>7 BY MS. LAWRENCE:</p> <p>8 <b>Q. Okay. The first or the only check; is that</b></p> <p>9 <b>better?</b></p> <p>10 A. So if no DTA is applied, there will still be</p> <p>11 a price check, and that compares, subject to other checks</p> <p>12 passing, the quote ID and the rate contained in that trade</p> <p>13 request, compared to the current rate at the point of the</p> <p>14 trade acceptance.</p> <p>15 <b>Q. And if a DTA -- I am sorry.</b></p> <p>16 A. And at the trade acceptance decision, there</p> <p>17 is, I guess -- maybe this is what you are referring to.</p> <p>18 There is a threshold parameter set, which is described here</p> <p>19 in this document, which would be, I guess, almost a -- well,</p> <p>20 it would be a scenario where we could shortcut the process</p> <p>21 and respond quicker than we otherwise would, on the basis of</p> <p>22 the price check done when the trade request is coming into</p> <p>23 the bank.</p> <p>24 <b>Q. Irrespective of that document or thresholds --</b></p> <p>25 <b>strike what I just started asking.</b></p> <p style="text-align: right;">161</p>	<p>1 Let's mark -- I am short of copies on this one,</p> <p>2 and I apologize for that -- as exhibit 57, a document</p> <p>3 bearing Bates number DB-Axiom_00401103.</p> <p>4 (Exhibit 57 marked for identification.)</p> <p>5 MR. GENSER: You just gave me one copy. Do you</p> <p>6 have any others?</p> <p>7 MS. LAWRENCE: I just told you. I am</p> <p>8 unfortunately short on copies on that one.</p> <p>9 MR. GENSER: Okay. I just --</p> <p>10 MS. LAWRENCE: That is the only one I think I am</p> <p>11 short on, and I truly do apologize.</p> <p>12 MR. GENSER: That is okay. We can share.</p> <p>13 MS. LAWRENCE: We realized that, some time after</p> <p>14 the power outage. She is going to look and maybe we can</p> <p>15 find another one.</p> <p>16 A. This is printed out of the U.S.? I mean, the</p> <p>17 date would be January 11 or 1st November?</p> <p>18 BY MS. LAWRENCE:</p> <p>19 <b>Q. So my understanding is that these are U.S. --</b></p> <p>20 A. Okay. So in January?</p> <p>21 <b>Q. That is correct.</b></p> <p>22 <b>And some of them are mathematically impossible;</b></p> <p>23 <b>you know, like a 1/31 or something. That is what I base</b></p> <p>24 <b>that on.</b></p> <p>25 A. Okay.</p> <p style="text-align: right;">163</p>
<p>1 You referred to this document, which is about</p> <p>2 the DTA module. So is that price check you were just</p> <p>3 referring to, part of the DTA module or in the absence of</p> <p>4 the DTA module?</p> <p>5 A. I believe that check happens, regardless.</p> <p>6 <b>Q. Okay.</b></p> <p>7 A. And then there is an optional DTA process.</p> <p>8 <b>Q. Okay.</b></p> <p>9 So there's the point of the trade request and</p> <p>10 then, absent the DTA, there is a trade decision. And you</p> <p>11 say that that's based on the current rate at the point of</p> <p>12 the trade acceptance. That is the price check that occurs</p> <p>13 there; correct?</p> <p>14 MR. GENSER: Object to form.</p> <p>15 A. Yes, broadly, I think that's correct.</p> <p>16 BY MS. LAWRENCE:</p> <p>17 <b>Q. Okay. And then if a DTA is applied, there is</b></p> <p>18 <b>another point?</b></p> <p>19 A. Not another point. There is just a different</p> <p>20 point.</p> <p>21 <b>Q. Fair enough; there is a different point. And</b></p> <p>22 <b>a price check is done at that point, based upon the current</b></p> <p>23 <b>rate at that point; correct?</b></p> <p>24 A. Yes.</p> <p>25 <b>Q. Okay.</b></p> <p style="text-align: right;">162</p>	<p>1 MR. GENSER: I just want to understand. There's</p> <p>2 two things that you handed me. It is all the same exhibit?</p> <p>3 MS. LAWRENCE: They are all the same exhibit.</p> <p>4 They are sequential Bates pages.</p> <p>5 MR. GENSER: Okay. So it is going from 103</p> <p>6 through 112?</p> <p>7 MS. LAWRENCE: That's correct.</p> <p>8 A. Yes, go ahead.</p> <p>9 BY MS. LAWRENCE:</p> <p>10 <b>Q. Do you recognize the e-mail and the attachment</b></p> <p>11 <b>before you?</b></p> <p>12 A. I don't have a recollection of this.</p> <p>13 <b>Q. The e-mail side -- generally what type of</b></p> <p>14 <b>document is the attached document?</b></p> <p>15 A. So by looking at the document, this looks</p> <p>16 like -- to be written by Henrik Muer who is a quant in</p> <p>17 the -- sorry so I don't ...</p> <p>18 He has basically modified an existing document to</p> <p>19 reflect the discussions we have had, as I can see from the</p> <p>20 body of the e-mail. So I am assuming he is not the author</p> <p>21 of this, but has edited it in some sense.</p> <p>22 This was in 2011, at some point, probably January,</p> <p>23 which is about one and a half years before the Rapid</p> <p>24 go-live. So I am assuming that this was the very early</p> <p>25 stages of starting to think about the design of Rapid.</p> <p style="text-align: right;">164</p>





<p>1 Q. And the questions best answered by somebody 2 else included: 3 "What is the logic of your last look 4 algorithm ..." 5 A. That's right. Well, sorry. Yes, okay, if you 6 write that here, yes. 7 MR. GENSER: I will just note for the record: you 8 only read half of that sentence, to the extent you are 9 reading from the document. 10 BY MS. LAWRENCE: 11 Q. So based upon this e-mail, that wasn't 12 something that salespeople could comfortably -- or junior 13 salespeople could comfortably answer? 14 A. That was our assessment, yes. 15 And by the way, that wasn't necessarily just our 16 assessment. That would have also been the assessment of the 17 junior salespersons. 18 Q. How do you know that? 19 A. So I think the background to this is that 20 sales were getting into, sort of, over time, in the 21 evolution that I described before, the discussions were 22 becoming more technical over time as to the platform and the 23 execution style of traders is becoming more technical. 24 Junior salespeople have a variety of functions, 25 and don't always specialize, even in FX spots specifically,</p> <p style="text-align: right;">249</p>	<p>1 A. Last look, in one way or the other, is part of 2 any OTC market. 3 Q. But at the time, you worked in the FX market; 4 correct? 5 MR. GENSER: Objection, argumentative. 6 A. At the time, I worked in FX. I don't think 7 that is related to your question, in that case. 8 BY MS. LAWRENCE: 9 Q. Were junior salespeople familiar with the 10 methodology behind delayed trade acceptance on Autobahn or 11 on Rapid? 12 MR. GENSER: Objection, asked and answered. Lack 13 of foundation. 14 A. I would expect them to have some basic high 15 level understanding of the process. But that doesn't mean 16 that they will be able to answer any client queries on that 17 topic. 18 BY MS. LAWRENCE: 19 Q. What does an FMR meeting mean to you? 20 A. I don't recall. Perhaps it is an industry 21 body. I don't know. I don't know. 22 Q. Do you know John Estrada? 23 A. Yes, I know John Estrada. 24 Q. Did John Estrada work at Credit Suisse? 25 A. Yes.</p> <p style="text-align: right;">251</p>
<p>1 certainly not in electronic spots exclusively. And so they 2 wouldn't always be aware of all the intricacies of the 3 trading platform. 4 And so they can answer high level questions, but 5 when they end up in conversations where clients are asking 6 them a detailed question, there have been instances where 7 they escalate that to their manager and say: "I am ending up 8 in conversations where I don't necessarily know the details. 9 what should I do?" 10 And this was kind of an effort to give guidance to 11 salespeople to say: "If you don't know the answer to 12 a question, say you don't know the question and you will 13 follow up." 14 And this was basically to provide a framework or 15 a guidance for sales; a cheat sheet, if you like, to 16 understand: "These are the topics that I am expected to 17 answer and these are the topics that I am expected to defer 18 to more senior people within the organization." 19 And from memory, this was not -- this was an 20 effort that was conducted across the global markets; so 21 this wasn't FX-specific. 22 Q. Your examples of the categories include, in 23 your definition, as we just discussed, it does include last 24 look algorithm, though, which is specific to FX in this 25 instance; correct?</p> <p style="text-align: right;">250</p>	<p>1 Q. And what was his position, or what is his 2 current position at Credit Suisse? 3 A. Well, I believe he is in a similar role to 4 mine. I don't know his exact responsibilities, but I think 5 he is -- well, I believe he is head of E-trading or 6 a similar role. 7 Q. Do you communicate, or have you communicated, 8 with individuals in similar roles as yours at other banks? 9 MR. GENSER: Objection, vague. 10 A. So to give you an example. The Market Maker 11 Advisory Committee gathers a number of trading heads from 12 a number of banks. And so that would be one example where 13 I would sit in the same room with my peers and interact, 14 communicate and discuss topics with them. 15 BY MS. LAWRENCE: 16 Q. Do you recall having specific conversations 17 with Mr. Estrada in 2014 about DTA or last look? 18 MR. GENSER: Object to form. 19 BY MS. LAWRENCE: 20 Q. Or both? 21 MR. GENSER: Object to form. 22 A. I don't recall specifically. I do recall that 23 John, on one or a few occasions, has asked me to get 24 involved in some forum or discussion on these topics. 25 To the best of my knowledge, I have never accepted</p> <p style="text-align: right;">252</p>

